

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

ROBERT VAN CLEAVE,

Petitioner,

Civil Action No.
07-CV-11899

vs.

JEFF WHITE,

PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Respondent.

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**ORDER DENYING PETITIONER’S “EMERGENCY MOTION TO VACATE
JUDGMENT”**

Now before the Court is Petitioner’s “Emergency Motion to Vacate Judgment” [docket entry 18]. On December 7, 2009, Magistrate Judge Paul J. Komives issued a Report and Recommendation (“R&R”) in which he recommended that Petitioner’s Application for Writ of Habeas Corpus be denied and that a certificate of appealability be denied. No objections were filed. On December 29, 2009, after the expiration of the deadline for objections, the Court issued an order accepting and adopting the R&R and entered judgment in favor of Respondent. *See* docket entries 16, 17. On January 8, 2010, Petitioner filed the present “Emergency Motion to Vacate Judgment” in which he states, in pertinent part that: “Petitioner, through excusable oversight failed to timely tender objections to the [R&R]” because “[c]ounsel was not aware that Magistrate Judge Komives had filed a [R&R] in this matter until Counsel discovered that [the Court] had entered . . . judgment.” Because Petitioner has failed to file timely objections to the R&R in accordance with Fed. R. Civ. P. 72(b), Petitioner’s “Emergency Motion to Vacate Judgment” is denied.

SO ORDERED.

S/Paul D. Borman
PAUL D. BORMAN
UNITED STATES DISTRICT JUDGE

Dated: January 26, 2010

CERTIFICATE OF SERVICE

Copies of this Order were served on the attorneys of record by electronic means or U.S. Mail on January 26, 2010.

S/Denise Goodine
Case Manager